

Loan No. 254940750202133

ENT 127293:2021 PG 1 of 12
Andrea Allen
Utah County Recorder
2021 Jul 19 04:59 PM FEE 40.00 BY LT
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WHEN RECORDED, RETURN TO:

Zions Bancorporation, N.A.
dba Zions First National Bank
Real Estate Banking Group
One South Main Street, Suite 470
Salt Lake City, Utah 84133
Attn: Real Estate Banking Group Manager

FIFTH SUPPLEMENTAL ASSIGNMENT OF LEASES

(Borrowing Base Property)
(Springville, Utah)

This Fifth Supplemental Assignment of Leases (the "Fifth Supplemental Assignment of Leases") is made and entered into this 15 day of July, 2021 (the "Effective Date"), by and between Wadsworth Springville, LLC, a Utah limited liability company, and Wadsworth/Moore Springville, LLC, a Utah limited liability company, as their interests may appear (individually and collectively "Assignor"), and Zions Bancorporation, N.A., dba Zions First National Bank, whose address is One South Main Street, Suite 470, Salt Lake City, Utah 84133 ("Lender").

RECITALS

a) Lender and Wadsworth & Sons IV, LLC, a Utah limited liability company ("Borrower"), entered into a Fourth Amended and Restated Loan Agreement dated May 23, 2019 (the "Original Loan Agreement"), whereby Lender agreed to make a loan to Borrower in the original principal amount of Seventeen Million Five Hundred Thousand Dollars (\$17,500,000.00) (the "Loan"), which Loan is further evidenced by, among other things, (i) a Fourth Renewal and Substitute Promissory Note (Parcel Acquisition) dated May 23, 2019, executed by Borrower for the benefit of Lender, and which is in the original principal amount of Five Million Five Hundred Thousand Dollars (\$5,500,000.00), and (ii) a Fourth Renewal and Substitute Promissory Note (Construction) dated May 23, 2019, executed by Borrower for the benefit of Lender, and which is in the original principal amount of Twelve Million Dollars (\$12,000,000.00) (collectively the "Original Note").

b) Borrower's obligations under the Original Note are secured by the collateral described in the Assignment of Leases dated April 23, 2014, entered into between Assignor, as "Assignor" and Lender, as "Lender", and which was recorded in the office of the County Recorder of Utah County, State of Utah, on April 25, 2014, as Entry No. 27351:2014, as amended by the Supplemental Assignment of Leases dated December 11, 2015, and recorded in the office of the County Recorder of Utah County, State of Utah, on December 16, 2015, as Entry No. 112210:2015 as supplemented by that certain Second Supplemental Assignment of Leases dated May 9, 2017,

which was recorded in the office of the County Recorder of Utah County, State of Utah, on May 10, 2017 as Entry No. 45398:2017, that Third Supplemental Assignment of Leases dated November 7, 2017, which was recorded in the office of the County Recorder of Utah County, State of Utah, on November 11, 2017, as Entry No. 115690:2017, and that Fourth Supplemental Assignment of Leases dated May 23, 2019, which was recorded in the office of the County Recorder of Utah County, State of Utah, on June 21, 2019, as Entry No. 56840:2019, (collectively, the "Assignment of Leases"). The Assignment of Leases encumbers real property located in Utah County, State of Utah, and more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property").

c) In accordance with a Fifth Amended and Restated Loan Agreement dated the Effective Date, entered into between Borrower and Lender, which replaces the Original Loan Agreement (the "Amended and Restated Loan Agreement"), Borrower is executing (i) a Fifth Renewal and Substitute Promissory Note (Parcel Acquisition) dated the Effective Date, in the principal amount of Eight Million Dollars (\$8,000,000.00), and (ii) a Fifth Renewal and Substitute Promissory Note (Construction) dated the Effective Date, in the principal amount of Fifteen Million Dollars (\$15,000,000.00) (collectively the "Renewal Note"), which Renewal Note replaces the Original Note.

The Amended and Restated Loan Agreement, Renewal Note, Assignment of Leases, and all other documents defined as Loan Documents in the Amended and Restated Loan Agreement, are hereinafter collectively referred to as the "Loan Documents".

d) Assignor and Lender now desire to amend and supplement the Assignment of Leases to modify the obligations secured thereby consistent with the Amended and Restated Loan Agreement and the Renewal Note.

AGREEMENT

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Assignor and Lender agree as follows:

2) Reaffirmation of the Assignment of Leases. Assignor and Lender agree and acknowledge that it was their intention at the time of the execution of the Assignment of Leases, that the Assignment of Leases encumber the Property, and it continues to be their intention that the Assignment of Leases, as amended and supplemented by this Fifth Supplemental Assignment of Leases, continues, without interruption, to encumber the Property.

3) Amendment and Supplementation of Assignment of Leases. The Assignment of Leases is hereby amended to include in the indebtedness secured by the Assignment of Leases, the Renewal Note (which replaces the Original Note). Specifically, Recital A on Page 1 of the Assignment of Leases is hereby amended to read in its entirety as follows:

Lender has made a loan to Wadsworth & Sons IV, LLC, a Utah limited liability company (“Borrower”), in the amount of Twenty-Three Million Dollars (\$23,000,000.00) (the “Loan”). The Loan is evidenced by (i) a Fifth Renewal and Substitute Promissory Note (Parcel Acquisition) dated July 15, 2021, and executed by Borrower in the original principal amount of Eight Million Dollars (\$8,000,000.00), and (ii) a Fifth Renewal and Substitute Promissory Note (Construction) dated July 15, 2021, and executed by Borrower in the original principal amount of Fifteen Million Dollars (\$15,000,000.00) (collectively the “Note”). The Loan will be advanced under a Fifth Amended and Restated Loan Agreement between Borrower and Lender dated July 15, 2021 (the “Loan Agreement”).

4) **Security.** Assignor and Lender agree and acknowledge that the Original Note, as amended and restated by the Renewal Note, and all other indebtedness and obligations described in the Assignment of Leases, are secured by the Assignment of Leases, as amended and supplemented by this Fifth Supplemental Assignment of Leases.

5) **Survival of Obligations; Continuation of Terms of Loan Documents.** Lender and Assignor agree that the Assignment of Leases, together with all of Assignor’s obligations thereunder, shall, except to the extent expressly modified by this Fifth Supplemental Assignment of Leases, remain in full force and effect and survive the execution of this Fifth Supplemental Assignment of Leases. Except as expressly modified by this Fifth Supplemental Assignment of Leases, all terms and conditions of the Loan Documents shall continue in full force and effect.

6) **Representations, Warranties, Covenants and Agreements.** Assignor represents, warrants, and agrees that the representations, warranties, covenants and agreements of Assignor contained in the Loan Documents (a) are true and accurate as of the date of this Fifth Supplemental Assignment of Leases, (b) are hereby remade and reaffirmed by Assignor, and (c) are in full force and effect as of the date of this Fifth Supplemental Assignment of Leases, enforceable in accordance with their terms. Assignor further represents and warrants that Assignor is not in default under any of the terms and conditions of the Loan Documents, and no conditions exist which, with the passage of time, the giving of notice, or both, would constitute a default under the Loan Documents.

7) **Counterparts.** This Fifth Supplemental Assignment of Leases may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, but all of which taken together shall constitute only one agreement. The production of any executed counterpart of this Fifth Supplemental Assignment of Leases signed by the party to be charged with the contents thereof shall be sufficient for all purposes without producing or accounting for any other counterpart. Copies of this Fifth Supplemental Assignment of Leases, and fax signatures thereon, shall have the same force, effect and legal status as an original.

8) **Electronic Signatures.** The parties to this Fifth Supplemental Assignment of Leases expressly agree that they may, but are not obligated to, conduct this transaction

electronically, including by scan, email or fax.

9) **Defined Terms.** Unless otherwise defined in this Fifth Supplemental Assignment of Leases, capitalized terms used herein have the meanings given them in the Amended and Restated Loan Agreement.

10) **Governing Law.** This Fifth Supplemental Assignment of Leases and all matters relating to this Fifth Supplemental Assignment of Leases shall be governed exclusively by and construed in accordance with the applicable laws of the State of Utah.

11) **Integrated Agreement and Subsequent Amendment.** This Fifth Supplemental Assignment of Leases, the Loan Documents, the Renewal Note, and the other agreements, documents, obligations, and transactions contemplated by the Amended and Restated Loan Agreement and this Fifth Supplemental Assignment of Leases constitute the entire agreement between Lender and Assignor with respect to the subject matter of the agreements, and may not be altered or amended except by written agreement signed by Lender and Assignor. PURSUANT TO UTAH CODE SECTION 25-5-4, ASSIGNOR IS NOTIFIED THAT THESE AGREEMENTS ARE A FINAL EXPRESSION OF THE AGREEMENTS BETWEEN LENDER AND ASSIGNOR AND THESE AGREEMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED ORAL AGREEMENT.

12) **Accommodation Assignor.** Assignor is an affiliated entity with Borrower, and is under common ownership and control with Borrower. Assignor's business and operations are inter-related with those of Borrower. Assignor acknowledges and agrees that Assignor, and any and all members of Assignor, will receive direct and indirect benefits from the making and continuance of the Loan to Borrower and Assignor further recognizes intrinsic benefits to Assignor's business operations from the making and continuance of the Loan to Borrower. Given those relationships and the benefits Assignor receives from the Loan, Assignor acknowledges good and sufficient consideration for execution and delivery of this Fifth Supplemental Assignment of Leases. Assignor acknowledges and agrees that as of the date of this Fifth Supplemental Assignment of Leases, Assignor is solvent and the execution of this Fifth Supplemental Assignment of Leases by Assignor will not render Assignor insolvent, and Assignor has received reasonable equivalent value for the execution and delivery of this Fifth Supplemental Assignment of Leases. Without limiting the foregoing, Assignor acknowledges that: (1) Lender would have not modified the Loan or advanced additional Loan proceeds to Borrower if Assignor had not executed and delivered this Fifth Supplemental Assignment of Leases; (2) Lender accepted this Fifth Supplemental Assignment of Leases as partial security for the Loan at the request of both Borrower and Assignor; (3) Lender shall have no obligation to investigate the credit standing or creditworthiness of Borrower, or during the Loan report to Assignor regarding the credit standing or credit worthiness of Borrower; and (4) Assignor has fully investigated the financial standing of Borrower and the adequacy of said collateral and will continue to keep itself fully apprised of the financial standing of Borrower and the adequacy of said collateral through the term of the Loan.

Assignor waives any right to require Lender to: (a) proceed against Borrower; (b) proceed

against or exhaust any security pledged to or held by Lender from Borrower; or (c) pursue any other remedy in Lender's power whatsoever. Assignor waives any defense arising by reason of any disability or other defense of Borrower or by reason of the cessation from any cause whatsoever of the liability of Borrower, until the Loan has been paid in full, except for the performance of the Loan under this Fifth Supplemental Assignment of Leases or upon the release of this instrument in accordance with the terms hereof. Assignor waives all rights it may now have or later acquires under any statute in derogation of the foregoing waivers.

***[SIGNATURE PAGE(S) AND EXHIBIT(S),
IF ANY, FOLLOW THIS PAGE]***

DATED: July 15, 2021.

ASSIGNOR

WADSWORTH SPRINGVILLE, LLC,
a Utah limited liability company

By: Wadsworth & Sons II, LLC,
a Utah limited liability company,
Manager of Wadsworth Springville, LLC


By: 

Kip L. Wadsworth, Executive Manager

By: 

Con L. Wadsworth, Operations Manager

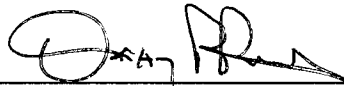
WADSWORTH/MOORE SPRINGVILLE, LLC,
a Utah limited liability company

By: 

Kip L. Wadsworth, Manager

LENDER

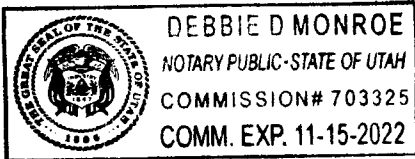
Zions Bancorporation, N.A.,
dba Zions First National Bank

By: 

Timothy P. Raccuia
Senior Vice President

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

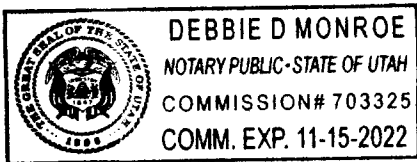
The foregoing instrument was acknowledged before me this 14th day of July, 2021, by Kip L. Wadsworth, Executive Manager of Wadsworth & Sons II, LLC, a Utah limited liability company, Manager of Wadsworth Springville, LLC, a Utah limited liability company.



Debbie D Monroe
NOTARY PUBLIC
Residing at: Salt Lake

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

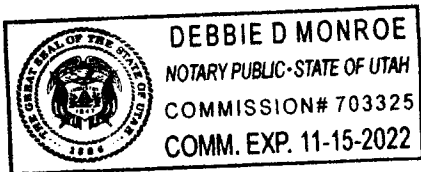
The foregoing instrument was acknowledged before me this 14th day of July, 2021, by Con L. Wadsworth, Operations Manager of Wadsworth & Sons II, LLC, a Utah limited liability company, Manager of Wadsworth Springville, LLC, a Utah limited liability company.



Debbie D Monroe
NOTARY PUBLIC
Residing at: Salt Lake

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 14th day of July, 2021, by Kip L. Wadsworth, Manager of Wadsworth/Moore Springville, LLC, a Utah limited liability company.



Debbie D Monroe
NOTARY PUBLIC
Residing at: Salt Lake

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 15 day of July, 2021, by Timothy P. Raccuia, Senior Vice President of Zions Bancorporation, N.A., dba Zions First National Bank.

Michelle Tubbs

NOTARY PUBLIC
Residing at: *Salt Lake City*

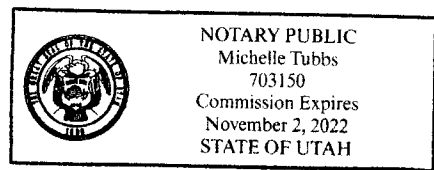


EXHIBIT A**REAL PROPERTY DESCRIPTION**

The real property located in Utah County, State of Utah, and more particularly described as follows:

REAL PROPERTY LOCATED IN THE SOUTHEAST CORNER OF SECTION 31, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE & MERIDIAN, SPRINGVILLE, UTAH SAID PROPERTY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND REBAR AND CAP BEING NORTH 00°12'17" EAST 271.00 FEET FROM A FENCE CORNER ON THE NORTH LINE OF 400 SOUTH STREET AT THE EAST LINE OF 1800 WEST STREET, SPRINGVILLE, UTAH, SAID FENCE CORNER BEING NORTH 89°38'30" EAST 949.81 FEET ALONG THE SECTION LINE AND NORTH 884.77 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 31, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE & MERIDIAN, SAID POINT OF BEGINNING ALSO BEING THE NORTHWEST CORNER OF THAT CERTAIN PARCEL DESCRIBED IN THAT CERTAIN WARRANTY DEED AS RECORDED IN ENTRY NO. 46589 IN BOOK 5057 AT PAGE 57 OF OFFICIAL RECORDS; AND RUNNING THENCE NORTH 0°12'17" EAST 336.43 FEET ALONG SAID EAST LINE OF 1750 WEST STREET TO A FOUND REBAR & CAP AT AN EXISTING WIRE FENCE LINE, THENCE ALONG SAID WIRE FENCE LINE THE FOLLOWING EIGHT (8) COURSES: 1) SOUTH 89°42'11" EAST 296.11 FEET; 2) SOUTH 89°38'51" EAST 115.37 FEET; 3) NORTH 89°14'06" EAST 198.81 FEET; 4) SOUTH 89°24'36" EAST 331.17 FEET TO A FOUND REBAR & CAP; 5) SOUTH 1°16'38" WEST 225.69 FEET; 6) SOUTH 0°55'08" WEST 250.17 FEET; 7) THENCE SOUTH 0°55'44" EAST 134.53 FEET TO A FOUND REBAR & CAP AT THE NORTH RIGHT OF WAY LINE OF 400 SOUTH STREET; 8) THENCE NORTH 89°38'30" WEST 680.75 FEET ALONG THE SAID NORTH LINE OF 400 SOUTH STREET TO A FOUND REBAR & CAP; SAID POINT BEING THE SOUTHEAST CORNER OF THAT CERTAIN PARCEL AS DESCRIBED IN SAID WARRANTY DEED; THENCE ALONG THE EAST AND NORTH LINE OF SAID PARCEL THE FOLLOWING TWO (2) COURSES: 1) NORTH 00°12'17" EAST 271.00 FEET TO A FOUND REBAR & CAP; 2) NORTH 89°38'30" WEST 256.01 FEET TO A FOUND REBAR & CAP AND THE POINT OF BEGINNING.

LESS AND EXCEPTING THEREFROM THAT PORTION LYING WITHIN THE 7-ELEVEN PROPERTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF 400 SOUTH STREET AND THE EAST LINE OF 1750 WEST STREET, SPRINGVILLE, UTAH SAID POINT BEING NORTH 89°11'58" EAST 949.81 FEET ALONG THE SECTION LINE AND NORTH 884.77 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 31, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 00°12'17" EAST 271.00 FEET ALONG SAID EAST LINE OF 1750 WEST STREET, THENCE SOUTH 89°38'30" EAST 256.00 FEET, THENCE SOUTH 00°12'17" WEST 271.00 FEET TO SAID NORTH LINE OF 400 SOUTH STREET, THENCE NORTH 89°38'30" WEST 256.00 FEET ALONG SAID NORTH LINE OF 400 SOUTH STREET TO THE POINT OF BEGINNING.

ALSO LESS AND EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE UTAH DEPARTMENT OF TRANSPORTATION BY WARRANTY DEEDS RECORDED SEPTEMBER 18, 2008 AS ENTRY NO.'S 103102:2008 AND 103105:2008, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND IN FEE, BEING PART OF AN ENTIRE TRACT OF PROPERTY, SITUATE IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 889.11 FEET NORTH AND 1205.78 FEET EAST FROM THE SOUTH QUARTER CORNER OF SAID SECTION 31: AND RUNNING THENCE N 00°12'17"E 15.45 FEET; THENCE S89°39'43"E 680.44 FEET; THENCE S 00°55'44"E 15.69 FEET; THENCE N89°38'30"W 680.75 FEET TO THE POINT OF BEGINNING.

ALSO LESS AND EXCEPTING THEREFROM, THAT PORTION OF THE SUBJECT PROPERTY KNOW KNOWN AS WADSWORTH SPRINGVILLE SUBDIVISION, RECORDED JULY 30, 2014 AS ENTRY NO. 52511:2014 AND AS MAP FILING NO. 14316 OF OFFICIAL RECORDS, BEING A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, SPRINGVILLE, UTAH, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF 400 SOUTH STREET, SAID POINT BEING NORTH 89°11'58" EAST 1218.39 FEET ALONG THE SECTION LINE AND NORTH 00°48'02" WEST 894.95 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 31, THENCE NORTH 00°12'17" EAST 136.52 FEET; THENCE SOUTH 89°39'43" EAST 255.43 FEET;

THENCE SOUTH 00°20'17" WEST 136.52 FEET; THENCE NORTH 89°39'43"
WEST 255.11 FEET TO THE POINT OF BEGINNING.